

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U338E) to Recover O&M Costs Associated with the San Onofre Nuclear Generating Station Units Nos. 2 and 3 Ongoing Seismic Program, and New Seismic Research Projects and Analyses.	Application 11-04-006 (Filed April 15, 2011)
And Related Matter.	Application 11-05-011

**DECISION GRANTING INTERVENOR COMPENSATION TO  
THE ALLIANCE FOR NUCLEAR RESPONSIBILITY FOR SUBSTANTIAL  
CONTRIBUTION TO DECISION 12-05-004**

<b>Claimant: Rochelle Becker, Executive Director, Alliance for Nuclear Responsibility</b>	<b>For contribution to D.12-05-004</b>
<b>Claimed (\$): 60,025.50<sup>1</sup></b>	<b>Awarded (\$): 47,533.60 (22.88% reduction)</b>
<b>Assigned Commissioner: Michel Peter Florio</b>	<b>Assigned ALJ: Robert A. Barnett</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Decision (D.) 12-05-004 grants Southern California Edison Company (SCE) and San Diego Gas & Electric Company the requested funds to perform seismic studies, subject to certain conditions.
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<sup>1</sup> The claim total has been adjusted to \$61,630.50 to reflect Alliance for Nuclear Responsibility's Supplemental Reply to Southern California Edison Company's Response filed on August 23, 2012.

**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	07/07/2011	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	07/20/2011	Correct
4. Was the NOI timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.10-01-022	Correct
6. Date of ALJ ruling:	07/02/2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.10-01-022	Correct
10. Date of ALJ ruling:	07/02/2010	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-05-004	Correct
14. Date of Issuance of Final Order or Decision:	05/15/2012	Correct
15. File date of compensation request:	07/09/2012	Correct
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

<b>Contribution</b>	<b>Specific References to Claimant's Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
1. At Prehearing Conference for Application (A.) 10-11-015 on January 31, 2011, A4NR requests that SCE seismic studies funding be removed	Claimant's Prehearing Conference statement in A.10-11-015 (filed February 8, 2011).	The Alliance for Nuclear Responsibility does not show

<p>from full SCE General Rate Case (GRC) and addressed in a separate proceeding as had been done with PG&amp;E's proposed seismic studies.</p>	<p>Commissioner Simon's Scoping Memo in A.10-11-015, issued March 1, 2011, item 5 at p. 15, stated "I agree with A4NR" and granted A4NR's request "so that the Commission may act more quickly and uniformly on these issues."</p>	<p>that its presentation made a substantial contribution to D.12-05-004.</p>
<p>2. To avoid schedule delay and dilution of the consolidated A.11-04-006 and A.11-05-011 focus on the proposed San Onofre Nuclear Generating (SONGS) seismic studies, A4NR opposes PG&amp;E's late Motion to join the proceeding as a party.</p>	<p>Response by A4NR filed October 26, 2011.  ALJ Barnett denied PG&amp;E's Motion on November 3, 2011.</p>	<p>PG&amp;E's motion was denied on November 8, 2011 (TR 4:25-27).</p>
<p>3. A4NR recommends establishment of independent peer review of the SONGS seismic studies modeled after the Independent Peer Review Panel (IPRP) established for the Diablo Canyon seismic studies in D.10-08-003, and that a funding mechanism for such review be expressly provided in the Decision.</p>	<p>Claimant's Testimony (served September 30, 2011) at p 7; Claimant's Opening Brief (filed December 5, 2011) at p. 21.  D.12-05-004, Conclusion of Law #9, at p. 19; Ordering Paragraph # 5, at pp. 20 – 21; Ordering Paragraphs #6, #10, and #11 at pp. 21 – 22.</p>	<p>Confirmed.</p>
<p>4. A4NR recommends that <i>all</i> aspects of seismic study recommended by the California Energy Commission's Assembly Bill (AB) 1632 Report, as well as SCE's "long-term" seismic program, be subject to review by the IPRP, not just those which SCE wishes to have included.</p>	<p>Claimant's Opening Brief at p. 21, Claimant's Reply Brief (filed December 19, 2011) at pp. 8 - 9.  D.12-05-004 at p. 16.</p>	<p>Confirmed.</p>
<p>5. A4NR recommends that the independent peer review process be enhanced by outside experts where necessary, without the arbitrary limitations suggested by SCE.</p>	<p>Claimant's Opening Brief at p. 23, Claimant's Reply Brief at pp. 10 - 11.  D.12-05-004, Conclusion of Law #9, at p. 19; Ordering Paragraph #5 at p. 20.</p>	<p>Confirmed.</p>

<p>6. A4NR recommends that SCE's requested Tier 3 Advice Letter for future seismic studies related funding preserve a prescribed pathway for public input and questions.</p>	<p>Claimant's Opening Brief at p. 24.  D.12-05-004, Ordering Paragraph #3 at p. 20.</p>	<p>Alliance for Nuclear Responsibility's recommendation of using Tier 3 advice letters to request additional funding was duplicative of that already suggested by SCE.</p>
<p>7. A4NR recommends that independent peer review of SCE's seismic study plans take place prior to their implementation.</p>	<p>Claimant's Comments on Proposed Decision (filed April 5, 2012), Appendix, at pp. B – D.  D.12-05-004, Conclusion of Law #9, at p. 19.</p>	<p>Confirmed.</p>
<p>8. A4NR identifies premature conclusions in Proposed Decision concerning fulfillment of AB 1632 Report recommendations and other state regulatory requirements, recommends more neutral phrasing.</p>	<p>Claimant's Comments on Proposed Decision at pp. 2 - 5; Appendix, at pp. A – C.  D.12-05-004, at p. 8 and p. 10; Finding of Fact #2, at p. 16; Conclusion of Law #2, at p. 18.</p>	<p>Decision 12-05-004 did not incorporate Alliance for Nuclear Responsibility's comments on Conclusion of Law #2.</p>
<p>9. A4NR identifies premature conclusion in Proposed Decision concerning sufficiency of SCE's proposed studies to fulfill Nuclear Regulatory Commission post-Fukushima seismic review requirements, recommends more pro-active phrasing.</p>	<p>Claimant's Comments on Proposed Decision at pp. 5 – 10; Appendix, at p. A.  D.12-05-004, Finding of Fact #2, at pp. 16 – 17.</p>	<p>Confirmed.</p>
<p>10. A4NR identifies omission in Proposed Decision of California Emergency Management Agency from independent peer review, recommends correction.</p>	<p>Claimant's Comments on Proposed Decision, Appendix, at p. D.  D.12-05-004, at p. 12; Conclusion of Law #9, at p. 19; Ordering Paragraph #5, at p. 20.</p>	<p>Confirmed.</p>

11. A4NR identifies inadequate emphasis in Proposed Decision on transparency in independent peer review process, recommends correction.	Claimant's Comments on Proposed Decision, at pp. 10 – 15.  D.12-05-004, at pp. 12 – 13; Ordering Paragraph 5, at p. 21.	Confirmed.
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	Claimant	CPUC Verified
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>2</sup></b>	Yes	Correct
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	No	Correct
<b>c. If so, provide name of other parties:</b>  Other than the two Applicants and ORA, A4NR was the only active party in the proceeding.		Correct
<b>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b>  A4NR's position was adverse to ORA throughout the proceeding. ORA, in both its testimony and briefing, was willing to approve the scope of the proposed studies without use of any independent seismic expertise to determine their value. (ORA Opening Brief, p. 3.) Through cross examination of ORA's witness, A4NR determined that neither ORA nor anyone else at the CPUC had engaged professional seismic expertise – either in-house or through consultants – to review this Application. (Transcript, November 9, 2011, pp. 196 – 199) Nor was independent peer review a matter of interest for ORA, as demonstrated by the complete absence of any mention of the topic in its Opening Brief and Reply Brief.		Correct

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</b>  Had A4NR not been an active intervenor, the original proposal to include the	<b><u>CPUC Verified</u></b>  Alliance for Nuclear Responsibility substantially
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<sup>2</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p>seismic funding in the SCE GRC would have mired vital issues in a longer and more protracted proceeding. This would have deprived the creation of a framework for updating SONGS’ decades-old seismic assessment of the regulatory attention and public visibility it rightly deserves. Notably, the initial scoping memo in this proceeding was issued only two weeks before the Fukushima accident. The recently published report of the Japanese Diet’s Nuclear Accident Independent Investigation Commission reaffirms the potential tragic consequences of misplaced reliance on inadequately vetted seismic assessments.</p> <p>The US Government Accountability Office recently reported that SCE has not updated its SONGS seismic assessment since 1991.</p> <p>By far the most significant consequence of A4NR’s participation is the Decision’s establishment of an independent peer review process with the authority to retain outside experts. Although A4NR had advocated and prevailed in persuading the CPUC to establish such a panel for the PG&amp;E Diablo Canyon seismic studies (D.10-08-003), SCE made no suggestion for such a review process in its Application. Failure to provide for sufficiently robust external review would undermine public confidence in California’s regulatory oversight of SONGS, and could lead to deeply flawed conclusions regarding its seismic hazard. Whether the SONGS generating units never return to operation or are relicensed for another 20 years, the quality of seismic assessment of the site – and ratepayer faith in the integrity of that assessment – will be greatly enhanced by the independent peer review process advocated by A4NR and embedded in D.12-05-004.</p> <p>The horrific costs associated with scenarios of seismic-related catastrophe at SONGS, or its abrupt shutdown (“tens of billions of dollars” in economic dislocation from rolling blackouts, according to the Legislative Analyst’s review of a proposed ballot measure to close the plant), make clear that the costs of A4NR’s participation were reasonable in relationship to the benefits achieved.</p>	<p>contributed to the issue of requiring the use of outside experts and creating an independent peer review group for the SONGS seismic research projects. Alliance for Nuclear Responsibility’s claim has been adjusted as necessary for some duplication, lack of productivity, and lack of efficiency. Some of Alliance for Nuclear Responsibility’s comments to the proposed decision were incorporated into the final decision, D.12-05-004, and this participation bears a reasonable relationship to its final award.</p>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>A4NR’s small staff is geographically dispersed between San Diego and San Luis Obispo. To assure a consistent work product and avoid duplication of effort, Ms. Becker and Mr. Weisman have perfected a collaborative work style. Midway through this proceeding, A4NR enlisted external counsel with offices in Oakland. Guidance to and from Mr. Geesman has relied upon extensive use of email. Based on its accomplishments in this proceeding, especially given the absence of any other party with a similar viewpoint, A4NR believes the productivity of its use of time to be exceptional.</p>	<p>The work done by Becker and Weisman was duplicative. This concern with Alliance for Nuclear Responsibility’s participation has been discussed in D.13-03-023. Hours have been added to the total claim to reflect Alliance for Nuclear Responsibility’s response to SCE’s opposition to its claim.</p>
<p><b>c. Allocation of Hours by Issue</b></p> <p>1. The scope of the seismic and tsunami studies identified by the applicants: 0%</p>	<p>Verified.</p>

2. The costs of the studies; and whether they should be capped: 0%	
3. Whether shareholders of the utilities will bear a share of the costs: 0%	
4. Whether a balancing account should be approved: 0%	
5. Whether outside experts should be retained to review the planned studies and their costs: 43%	
6. Whether an Independent Peer Review Panel should be authorized and financed: 57%	

**B. Specific Claim:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
John Geesman	2011	11.99	535	Res. ALJ - 267	\$6,414.65	11.99	\$535	\$6,414.65
	2012	49.38	535	Res. ALJ - 267	\$26,418.30	49.38	\$545	\$26,912.10
Rochelle Becker	2011	56.00	155	Res. ALJ - 267	\$8,680.00	53	\$125	\$6,625.00
	2012	1.5	155	Res. ALJ - 267	\$232.50	1.5	\$130	\$195.00
David Weisman	2011	92.75	125	Res. ALJ - 267	\$11,593.75	35	\$75	\$2,625.00
	2012	1.5	125	Res. ALJ - 267	\$187.50	0	\$80	\$0
<b>Subtotal:</b>					\$53,526.70	<b>Subtotal:</b>		\$42,771.75
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Rochelle Becker	2011	16	\$77.50	Travel @ 50%	\$1,240.00	16	\$62.50	\$1,000.00
David Weisman	2011	16	\$62.50	Travel @ 50%	\$1,000.00	0	\$37.50	0
<b>Subtotal:</b>					\$2,240.00	<b>Subtotal:</b>		\$1,000.00
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
David Weisman	2012	8	\$62.50	Claim Prep. @ 50%	\$500.00	3	\$37.50	\$112.50
John Geesman	2012	6	\$267.50	Claim Prep. @ 50%	\$1,605.00	3	\$267.50	\$802.50
John Geesman	2012	6	\$267.50	Response to SCE's Opposition to	\$1,605.00	6	\$272.50	\$1,635.00

			Claim		
			<b>Subtotal:</b>	\$3,710.00	<b>Subtotal:</b> \$2,550.00
<b>COSTS</b>					
#	Item	Detail	Amount	Amount	
1	Parking	for public transit station	\$17.69		\$0
2	Copies		\$196.33		\$63.72
3	Gasoline		\$36.35		\$35.35
4	Hotels	San Francisco and vicinity	\$1,525.25		\$893.13
5	Railfares	Amtrak and BART	\$238.18		\$219.65
6	Taxis	San Francisco	\$140.00		\$0
			<b>Subtotal:</b>	\$2,153.80	<b>Subtotal:</b> \$1,211.85
			<b>TOTAL REQUEST \$:</b>	\$60,025.50 <sup>3</sup>	<b>TOTAL AWARD \$:</b> \$47,533.60
<p>* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>					
<b>Attorney</b>		<b>Date Admitted to CA BAR</b>		<b>Member Number</b>	
John Geesman		June 28, 1977		94448	

### C. Attachments Documenting Specific Claim and Comments on Part III:

#	Reason
Adoption of John Geesman's Hourly Rate 2011 and 2012	Alliance for Nuclear Responsibility requests an hourly rate of \$535 for John Geesman in 2011 and 2012. Geesman is an attorney who has served in state government and served as an investment banker in construction financing, specializing in utility projects, with a lapse in his California bar license in 1980. The Commission adopts an hourly rate of \$535 for Geesman's 2011 work. We base this rate on those suggested for attorneys with over 13 years of experience in Resolution ALJ-267. We apply a COLA of 2.2%, pursuant to Resolution ALJ-281, to the \$535 hourly rate to adopt a 2012 hourly rate for John Geesman of \$545.
Disallowance to John Geesman's	We reduce the time spent by John Geesman for intervenor compensation claim preparation. Six hours spent on a brief, routine filing is excessive.

<sup>3</sup> The claim total has been adjusted to \$61,630.50 to reflect to reflect Alliance for Nuclear Responsibility's Supplemental Reply to Southern California Edison Company's Response filed on August 23, 2013.

2012 time	
Adoption of Rochelle Becker's Hourly Rate 2012	Alliance for Nuclear Responsibility requests an hourly rate of \$155 for Rochelle Becker in 2011 and 2012. A 2011 hourly rate of \$125 was established for Becker in D.13-03-023. We use that rate in deciding this intervenor compensation claim. For 2012, we apply the 2.2% COLA increase, pursuant to Resolution ALJ-281, to Becker's 2011 hourly rate. We adopt an hourly rate of \$130 for Becker in 2012.
Adoption of David Weisman's Hourly Rate 2012	Alliance for Nuclear Responsibility requests an hourly rate of \$125 for David Weisman in 2011 and 2012. A 2011 hourly rate of \$75 was established for David Weisman in D.13-03-023. We use that rate in deciding this intervenor compensation claim. For 2012, we apply the 2.2% COLA increase, pursuant to Resolution ALJ-281, to Weisman's 2011 hourly rate. We adopt an hourly rate of \$80 for Weisman in 2012.
Disallowances to Rochelle Becker's time for duplication and inefficiency	Rochelle Becker's time is reduced to 70.5 hours over the course of the proceeding for lack of contribution and efficiency. After reviewing the filings and testimony, and comparing their content to Becker's time sheet, we find that the filings and testimony were not extensive enough to warrant the amount of time spent.
Disallowances to David Weisman's time for duplication, inefficiency, and non-compensable activities	David Weisman's time is reduced to 38 hours over the course of the proceeding. Several of Weisman's tasks were duplicative of Becker's tasks. Filings were not extensive enough to warrant the amount of time spent by two people. Time has been adjusted accordingly. Weisman's time spent preparing the intervenor compensation claim was also reduced as excessive for such a routine filing. Reductions are also made for Weisman's billed clerical and administrative tasks for filing that cannot be compensated and for duplicative time and travel expenditures at hearings that did not require the presence of both Weisman and Becker.
Disallowances for lack of receipts	Attachment 8 of Alliance for Nuclear Responsibility's claim included a spreadsheet of all proceeding costs, several of which were not supported by the required receipts. Additionally, several travel and lodging costs were not compensable because the expenditures were excessive and duplicative. The claim has been reduced in Part III(B) to reflect these disallowances.

#### **PART IV: OPPOSITIONS AND COMMENTS**

**Within 30 days after service of this Claim, Commission Staff  
or any other party may file a response to the Claim (see § 1804(c))**

<b>A. Opposition: Did any party oppose the Claim?</b>	Yes
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If so:

Party	Reason for Opposition	CPUC Disposition
SCE	Lack of substantial contribution, productivity and duplication	Though some of Alliance for Nuclear Responsibility's

		<p>proposals were undisputed they substantially contributed to D.12-05-004. Alliance for Nuclear Responsibility's claim has been reduced as necessary for lack of efficiency and duplication of time. Alliance for Nuclear Responsibility's contribution was not substantial on a small number of issues and its award has been reduced to reflect this contribution.</p>
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<p><b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?</b></p>	<p>Yes</p>
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**FINDINGS OF FACT**

1. Alliance for Nuclear Responsibility has made a substantial contribution to D.12-05-004.
2. The requested hourly rates for Alliance for Nuclear Responsibility's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses as, adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$47,533.60.

**CONCLUSION OF LAW**

The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. Alliance for Nuclear Responsibility is awarded \$47,533.60.
2. Within 30 days of the effective date of this decision, Southern California Edison Company and San Diego Gas & Electric Company shall pay Alliance for Nuclear Responsibility their respective shares of the award, based on their California-jurisdictional electric revenues for the 2011 calendar year, reflecting the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper, as reported in Federal Reserve Statistical Release H.15, beginning September 22, 2012, the 75th day after the filing of Alliance for Nuclear Responsibility's request for intervenor compensation, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D1205004	
<b>Proceeding(s):</b>	A1104006, A1105011	
<b>Author:</b>	ALJ Robert Barnett	
<b>Payer(s):</b>	Southern California Edison Company, San Diego Gas & Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier</b>	<b>Reason Change/Disallowance</b>
Alliance for Nuclear Responsibility	07/09/12	\$60,025 <sup>1</sup>	\$47,533.60	No	Reductions for inefficiency, duplication and lack of productivity. Disallowances for duplicate travel and lack of receipts.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
John	Geesman	Attorney	Alliance for Nuclear Responsibility	\$535	2011	\$535
John	Geesman	Attorney	Alliance for Nuclear Responsibility	\$535	2012	\$545
Rochelle	Becker	Advocate	Alliance for Nuclear Responsibility	\$155	2012	\$130
David	Weisman	Advocate	Alliance for Nuclear Responsibility	\$125	2012	\$80

<sup>1</sup> The claim total has been adjusted to \$61,630.50 to reflect to Alliance for Nuclear Responsibility's Supplemental Reply to Southern California Edison Company's Response filed on August 23, 2012.